

**TOWN OF LEXINGTON MUNICIPAL COURT
LEXINGTON, SOUTH CAROLINA**

**STATE AUDITOR'S REPORT
JUNE 30, 2013**

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**SAO
Transmittal
Letter**

State of South Carolina



Office of the State Auditor

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RICHARD H. GILBERT, JR., CPA
DEPUTY STATE AUDITOR

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May 16, 2014

The Honorable Nikki R. Haley, Governor
State of South Carolina
Columbia, South Carolina

The Honorable John R. Rakowsky, Chief Judge
Ms. Tina Lizardi, Clerk of Court
Ms. Kathy S. Roberts, Finance Director
Town of Lexington
Lexington, South Carolina

This report resulting from the application of certain agreed-upon procedures to certain accounting records of the Town of Lexington Municipal Court System as of and for the year ended June 30, 2013, was issued by Cline Brandt Kochenower & Co., P.A., Certified Public Accountants, under contract with the South Carolina Office of the State Auditor.

If you have any questions regarding this report, please let us know.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Richard H. Gilbert, Jr.", written in a cursive style.

Richard H. Gilbert, Jr., CPA
Deputy State Auditor

RHGjr/trb

INDEPENDENT ACCOUNTANT'S REPORT ON APPLYING AGREED-UPON PROCEDURES

April 30, 2014

The Honorable Nikki R. Haley, Governor
State of South Carolina
Columbia, South Carolina

The Honorable John R. Rakowsky, Chief Judge
Town of Lexington Municipal Court
Lexington, South Carolina

Ms. Tina Lizardi, Clerk of Court
Town of Lexington
Lexington, South Carolina

We have performed the procedures described below, which were agreed to by the Town of Lexington and the Town of Lexington Municipal Court, solely to assist you in evaluating the performance of the Town of Lexington Municipal Court for the period July 1, 2012 to June 30, 2013, in the areas addressed. The Town of Lexington and the Town of Lexington Municipal Court are responsible for its financial records, internal controls and compliance with State laws and regulations. This agreed-upon procedures engagement was conducted in accordance with attestation standards established by the American Institute of Certified Public Accountants. The sufficiency of these procedures is solely the responsibility of the specified parties in this report. Consequently, we make no representation regarding the sufficiency of the procedures described below either for the purpose for which this report has been requested or for any other purpose.

The procedures and the associated findings are as follows:

1. Clerk of Court

- We gained an understanding of the policies and procedures established by the Clerk of Court to ensure proper accounting for all fines, fees, assessments, surcharges, forfeitures, escheatments, or other monetary penalties.
- We obtained Lexington Municipal Court dockets from the Clerk of Court. We judgmentally selected twenty-five cases from the court dockets and recalculated the fine, fee, assessment and surcharge calculation to ensure that the fine, fee, assessment or surcharge was properly allocated in accordance with applicable State law. We also determined whether the fine, fee, assessment and/or surcharge adhered to State law and to the South Carolina Court Administration fee memoranda.

The Honorable Nikki R. Haley, Governor
and
The Honorable John R. Rakowsky, Chief, Judge
Ms. Tina Lizardi, Clerk of Court
Town of Lexington
April 30, 2014

- We tested recorded court receipt transactions to determine that the receipts were remitted in a timely manner to the Town's finance department in accordance with State law.

Our findings as a result of these procedures are presented in Adherence to Fine Guidelines, Assessments on Civil Penalties, Installment Fee and Breathalyzer Fee in the Accountant's C o m m e n t s section of this report.

2. Finance Director

- We gained an understanding of the policies and procedures established by the Town Finance Director to ensure proper accounting for all fines, fees, assessments, surcharges, escheatments, or other monetary penalties.
- We obtained copies of all State Treasurer's Revenue Remittance Forms submitted by the Town for the period July 1, 2012 through June 30, 2013. We agreed the line item amounts reported on the State Treasurer's Revenue Remittance Forms to the monthly court remittance reports and to the State Treasurer's receipts. We also agreed the total revenue due to the State Treasurer to the general ledger.
- We determined if the State Treasurer's Revenue Remittance Forms were submitted in a timely manner to the State Treasurer in accordance with State law.
- We verified that the amounts reported by the Town on its supplemental schedule of fines and assessments for the fiscal year ended June 30, 2012 and obtained the reconciliation to the State Treasurer's Revenue Remittance Forms and to the Town's general ledger. We also determined if the supplemental schedule of fines and assessments contained all required elements in accordance with State law.

There were no findings as a result of these procedures.

3. Victim Assistance

- We gained an understanding of the policies and procedures established by the Town to ensure proper accounting for victim assistance funds.
- We made inquiries and performed substantive procedures to determine if any funds retained by the Town for victim assistance were accounted for in a separate account.
- We tested judgmentally selected victim assistance expenditures to ensure that the Town expended victim assistance funds in accordance with State law and South Carolina Court Administration Fee Memoranda, Attachment L.

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and
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Ms. Tina Lizardi, Clerk of Court
Town of Lexington
April 30, 2014

3. **Victim Assistance**, continued

- We determined if the Town reported victim assistance financial activity on the supplemental schedule of fines and assessments in accordance with State law.
- We inspected the Town's general ledger to determine if the Victim Assistance Fund balance was retained as of July 1 from the previous fiscal year in accordance with State law.

There were no findings as a result of these procedures.

We were not engaged to and did not conduct an audit, the objective of which would be the expression of an opinion on compliance with the collection and distribution of court generated revenue at any level of court for the twelve months ended June 30, 2013, and, furthermore, we were not engaged to express an opinion on the effectiveness of internal controls over compliance with the laws, rules and regulations described in paragraph one and the procedures of this report. Accordingly, we do not express such an opinion. Had we performed additional procedures, other matters might have come to our attention that would have been reported to you.

This report is intended solely for the information and use of the Governor, Chairman of the House Ways and Means Committee, Chairman of the Senate Finance Committee, Chairman of the House Judiciary Committee, Chairman of the Senate Judiciary Committee, members of the Town of Lexington Town Council, Town of Lexington Municipal Judge, Town of Lexington Clerk of Court, Town of Lexington Finance Director, State Treasurer, State Office of Victim Assistance, and the Chief Justice and is not intended to be and should not be used by anyone other than these specified parties.

A handwritten signature in blue ink, appearing to read "Cline Brandt Kochenower & Co. P.A.", is written over a horizontal line.

Cline Brandt Kochenower & Co. P.A.

**ACCOUNTANT'S
COMMENTS**

VIOLATIONS OF STATE LAWS, RULES OR REGULATIONS

Management of the entity is responsible for establishing and maintaining internal controls to ensure compliance with State Laws, Rules or Regulations governing court collections and remittances. The procedures agreed to by the entity require that we plan and perform the engagement to determine whether any violations of State Laws, Rules or Regulations occurred.

The conditions described in this section have been identified as violations of State Laws, Rules or Regulations.

ADHERENCE TO FINE GUIDELINES

During our test of Municipal Court collections and remittances, we noted instances in which it appears that the judge did not fine the defendants in accordance with State law or local ordinance. The following describes the exceptions noted.

- 1) The Town's share of the allocation for one individual who was cited under the local town ordinance for public intoxication was (\$2.41).
- 2) The Town's share of the allocation for one individual who was cited for an open container violation was (\$2.41). Section 61-4-110 of the 1976 South Carolina Code of Laws, as amended, states, "A person who violates the provisions of this section is guilty of a misdemeanor and, upon conviction, must be fined not more than one hundred dollars or imprisoned not more than thirty days.
- 3) The Town's share of the allocation for one individual who was cited for driving under suspension, fixed period, first offense was (\$30.12). Section 56-1-460(A)(1) of the 1976 South Carolina Code of Laws, as amended, states, "a person...be punished as follows: (a) for a first offense, fined three hundred dollars..."
- 4) One individual was fined \$400.96 for Driving Under the Influence, blood alcohol less than .10, first offense. Section 56-5-2930(A) of the 1976 South Carolina Code of Laws, as amended, states, "A person who violates the provisions of this section... must be punished as follows: (1) for a first offense by a fine of four hundred dollars"

The Town Clerk of Court stated the errors in noted in 1) through 3) above were caused when the judge adjusted the fines without consulting the minimum fine requirements. After the Town allocated the fine/assessment, as required by law, the Town found that the total amount levied was not sufficient to cover applicable allocation amounts; therefore, the Town absorbed the fine shortage. The Town Clerk of Court stated the error noted in item 4) occurred as a result of a keypunch error on an over payment received from a defendant. The additional payment was entered into the system as a "fine" instead of a "miscellaneous contribution".

We recommend the Municipal Court implement procedures to ensure that fines levied by the court adhere to applicable State law.

ASSESSMENTS ON CIVIL PENALTIES

During our test of Municipal Court collections and remittances, we noted one individual was fined \$214.46 for a local civil ordinance violation. The Town applied assessments and surcharges to this fine; however, we could find no authority in the law to make such assessments and surcharges on a civil penalty.

We recommend the Town implement policies and procedures to ensure that assessments and surcharges are added to fines in accordance with State law.

INSTALLMENT FEE

During our test of Municipal Court collections and remittances, we noted the Court did not assess and collect the three percent installment fee from three defendants that had paid the total amount due in installments.

The Court's policy is to charge and collect the three percent installment fee on any cases where the defendant pays in installments; however, in these instances the applicable information was not input into the court accounting software so the three percent was not applied to the defendants' accounts.

Section 14-17-725 of the 1976 South Carolina Code of Laws, as amended, states, "... where criminal fines, assessments, or restitution payments are paid through installments, a collection cost charge of three percent of the payment also must be collected by the clerk of court...".

We recommend the Court ensures the installment fee is charged and collected in accordance with State law.

BREATHALYZER FEE

During our test of Municipal Court collections and remittances, we noted two instances where the Court did not assess the \$25 breathalyzer test fee for DUAC cases in which the defendants took the breathalyzer test and were subsequently convicted.

Section 56-5-2950(E) of the 1976 South Carolina Code of Laws, as amended, states, “The costs of the tests administered at the direction of the law enforcement officer must be paid from the general fund of the state. However, if the person is subsequently convicted of violating Section 56-5-2930, 56-5-2933, or 56-5-2945, then, upon conviction, the person must pay twenty-five dollars for the costs of the tests.”

The Clerk of Court stated the solicitor had pled both cases down from DUI to DUAC. In the process, new tickets were written and the information was not properly entered into the court accounting software.

We recommend the Court follow its policies and procedures to ensure the breathalyzer fee is properly assessed in accordance with State law.

**MUNICIPALITY'S
RESPONSE**

MUNICIPALITY'S RESPONSE

The management of the Town of Lexington has been provided a copy of the finding(s) identified in the Accountant's Comments Section of this report and has elected not to provide a written response to finding(s).